

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

THE UNITED STATES OF AMERICA,

Plaintiff,

v.

STATE OF ILLINOIS et al.,

Defendants.

No. 25 C 4811

Honorable Sharon Johnson Coleman

**DEFENDANTS' MOTION TO DISMISS**

Defendants respectfully move the Court pursuant to Federal Rule of Civil Procedure 12(b)(6) to dismiss the federal government's complaint, ECF 1, for failure to state a claim upon which relief can be granted. The grounds for defendants' motion are set forth in their combined memorandum in opposition to the federal government's motion for a preliminary injunction and in support of their motion to dismiss, which is incorporated by reference.

*First*, the challenged portions of the Right to Privacy in the Workplace Act ("Privacy Act") are not expressly preempted by 8 U.S.C. § 1324a(h)(2) because the Privacy Act does not impose sanctions for employing unauthorized aliens.

*Second*, the text and structure of federal immigration law do not establish that Congress has ousted the states from regulating in the field of "administrative processes governing Form I-9 documentation and inspection and E-Verify."

*Third*, the challenged portions of the Privacy Act are not an obstacle to the accomplishment and execution of Congress's full purposes and objectives.

For these reasons, defendants respectfully move the Court pursuant to Federal Rule of Civil Procedure 12(b)(6) to dismiss the federal government's complaint, ECF 1.

Dated: June 23, 2025

Respectfully submitted,

/s/ Darren Kinkad

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